

Ronald A. Clifford (State Bar No. 246542)  
E-Mail: RClifford@BlakeleyLLP.com  
BLAKELEY LLP  
18500 Von Karman Ave., Suite 530  
Irvine, California 92612  
Telephone: (949) 260-0611  
Facsimile: (949) 260-0613

Clayton W. Davidson (*Pro Hac Vice Pending*)  
E-Mail: CDavidson@mcneeslaw.com  
MCNEES WALLACE & NURICK LLC  
100 Pine Street – P.O. Box 1166  
Harrisburg, PA 17108-1166  
Telephone: (717) 232-8000  
Facsimile: (717) 260-1678

Attorneys for Defendant Sphere Digital, LLC

UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA – LOS ANGELES DIVISION

In re:

BLUE GLOBAL, LLC,

Debtor.

TIMOTHY J. YOO, CHAPTER 7 TRUSTEE,

Plaintiff,

v.

SPHERE DIGITAL, LLC,

Defendant.

Bk. Case No.: 2:17-bk-10900-ER

Chapter 7

Adv. Case No. 2:17-ap-01452-ER

Judge: Honorable Ernest M. Robles

**ANSWER AND AFFIRMATIVE  
DEFENSES OF SPHERE DIGITAL, LLC**

**JURY TRIAL DEMANDED**

Sphere Digital, LLC, (“Defendant”), by and through its undersigned counsel, hereby files this Answer and Affirmative Defenses with Request for Jury Trial and in support thereof states the following:

**JURISDICTION AND PARTIES**

1  
2 1. Denied. The United States District Court for the Central District of California has  
3 jurisdiction over this matter given Defendant's request for a jury trial. Defendant only consents to the  
4 United States Bankruptcy Court for the Central District of California to coordinate procedural matters  
5 for this adversary proceeding.  
6

7 2. Admitted.

8 3. Denied. The United States District Court for the Central District of California has  
9 jurisdiction over this matter given Defendant's request for a jury trial. Defendant only consents to the  
10 United States Bankruptcy Court for the Central District of California to coordinate procedural matters  
11 for this adversary proceeding.  
12

13 4. Admitted.

14  
15 **PARTIES**

16 5. Admitted.

17 6. Admitted.

18 7. Admitted.

19 **GENERAL ALLEGATIONS**

20 8. Admitted in part and Denied in part. Defendant admits receiving the Transfers  
21 referenced in Exhibit 1. Defendant denies receiving the payments as stated and summarized in Exhibit  
22

23 1.

24 9. Denied.

25 10. Admitted.

26 11. Admitted.

27 12. Denied.  
28

**FIRST CLAIM FOR RELIEF**

[FOR AVOIDANCE OF PREFERENTIAL TRANSFERS – 11 U.S.C. § 547]

13. Defendant incorporates herein by reference paragraphs 1 through 12 above.

14. Admitted.

15. Admitted.

16. Admitted.

17. Denied. Defendant does not have sufficient facts at this point in time to admit or deny Debtor was insolvent.

18. Denied. Defendant does not have sufficient facts at this point in time to admit or deny the Transfers enabled Defendant to receive more than if Debtor filed for Chapter 7 bankruptcy protection.

19. Admitted with clarification. Defendant admits that a majority of the Transfers were made within 90 days prior to Debtor filing for bankruptcy protection. Defendant reserves the right to investigate if any of the Transfers did not clear the Debtor's bank account within 90 days prior to Debtor filing for bankruptcy.

20. Denied. This is a legal conclusion and no response is required.

21. Denied.

**SECOND CLAIM FOR RELIEF**

[FOR RECOVERY OF PROPERTY – 11 U.S.C. §§ 550 and 551]

22. Defendant incorporates by reference paragraphs 1 through 21 above.

23. Admitted.

24. Denied. This is a legal conclusion and no response is required.

25. Denied. This is a legal conclusion and no response is required.

26. Denied. This is a legal conclusion and no response is required.

**THIRD CLAIM FOR RELIEF**

[FOR DISALLOWANCE OF CLAIM – 11 U.S.C. § 502(d)]

27. Defendant incorporates by reference paragraphs 1 through 26 above.

28. Denied. This is a legal conclusion and no response is required.

29. Denied. This is a legal conclusion and no response is required.

30. Denied. This is a legal conclusion and no response is required.

**PRAYER FOR RELIEF**

WHEREFORE, the Defendant, Sphere Digital, LLC requests judgment entered in its favor and dismiss the Complaint with prejudice, award applicable costs to the Defendant along with such other relief that is just and proper.

**First Affirmative Defense**

1. The Transfers were intended by the parties to be a contemporaneous exchange for new value given and commensurate new value was given contemporaneously by Defendant to Debtor.

2. Plaintiff may not avoid and/or recover the Transfers by virtue of the protections afforded Defendant under 11 U.S.C. §547(c)(1).

**Second Affirmative Defense**

3. The Transfers were incurred within the ordinary course of business of Debtor, made within the ordinary course of business between the parties and/or made in accordance with terms of similarly situated parties within Defendant's industry.

4. Plaintiff may not avoid and/or recover the Transfers by virtue of the protections afforded Defendant under 11 U.S.C. §547(c)(2).

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**Third Affirmative Defense**

5. Defendant provided goods and/or services to Debtor subsequent to each of the Transfers which constitute "new value" within the meaning of 11 U.S.C. §547(c)(4).

6. Plaintiff may not avoid and/or recover the Transfers by virtue of any protections afforded Defendant under 11 U.S.C. §547(c)(4).

**DEMAND FOR JURY TRIAL**

1. Defendant hereby demands a trial by jury as to all issues alleged by Plaintiff in the Complaint. *Langenkamp v. Culp*, 498 U.S. 42, 44-45 (1990) (right to jury trial exists in preference action).

2. Defendant has not appeared or otherwise participated in the above-referenced bankruptcy proceeding or in any other way submitted itself to the jurisdiction of the Bankruptcy Court.

3. Pursuant to 28 U.S.C. § 157(e), Defendant does not consent to the Bankruptcy Court conducting a jury trial.

Dated: October 26, 2017

**BLAKELEY LLP**

By: 

Ronald A. Clifford

**MCNEES WALLACE & NURICK LLC**

Clayton W. Davidson (Pro Hac Vice Pending)

*Attorneys for Sphere Digital, LLC*

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

18500 Von Karman Ave., Suite 530, Irvine, CA 92612.

A true and correct copy of the foregoing document entitled **Answer and Affirmative Defenses of Sphere Digital, LLC** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On October 26, 2017, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Jeffrey S Kwong on behalf of Plaintiff TIMOTHY J. YOO, Chapter 7 Trustee: jsk@lnbyb.com; jsk@ecf.inforuptcy.com

Timothy Yoo (TR): tjytrustee@lnbyb.com; tyoo@ecf.epiqsystems.com; tjy@trustesolutions.net

United States Trustee (LA): ustpreion16.la.ecf@usdoj.gov

☐ Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On October 26, 2017, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Jeffrey S. Kwong, Esq.  
Levene Neale Bender Yoo & Brill LLP  
10250 Constellation Blvd., Ste. 1700  
Los Angeles, CA 90067

☐ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served):** Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on October 26, 2017, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Overnight Mail  
Honorable Ernest M. Robles  
United States Bankruptcy Court  
Edward R. Roybal Federal Building and Courthouse  
255 E. Temple Street, Suite 1560  
Los Angeles, CA 90012

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

October 26, 2017      Ronald A. Clifford  
Date                      Printed Name

/s/ Ronald A. Clifford  
Signature